

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



January 7, 2011

Allison C. Prince
Goulston & Storrs, PC
1999 K Street NW, 5th Floor
Washington, DC 20006

Re: Zoning Determination Letter
624 9th Street, NW (Square 376, Lot 68) (the "Property")

Dear Ms. Prince

The purpose of this letter is to summarize the issues that we reviewed in our meeting on December 10, 2010. As we discussed, your client has proposed to renovate and expand the existing office building on the Property (the "Project"). As detailed on the Zoning Computation sheet ("Comp Sheet") prepared by the Zoning Administrator during the processing of the building permit for the existing building, the structure was originally constructed in 1980 in compliance with the C-4 zoning that was in effect at that time. See Exhibit A. The Property is now located in the DD/C-4 zone. Plans illustrating the Property, the existing building, and the Project are attached as Exhibit B.

A. The Downtown Development (DD) Overlay

Pursuant to 11 DCMR § 1700.5, the provisions of the DD Overlay do not apply to existing buildings unless additions, alterations, and repairs within any 12 month period exceed 100% of the assessed value of the building as of the date of the building permit application. You have indicated that the cost of the proposed improvements will not exceed \$11,088,000, which is the assessed value of the building according to the records of the Office of Tax and Revenue.

Provided that either (a) a building permit is applied for during the period of the current assessment or (b) if the permit is applied for in a subsequent assessment period, the cost of the proposed improvements within any 12 month period does not exceed the assessment of the building at that time, the Project will not trigger the applicability of DD.

B. Height

Pursuant to 11 DCMR § 770, a height of 110 feet is permitted. According to District records, G Street has a right-of-way of 90 feet, which permits a height of 110 feet under the 1910

Height Act. Under both the Zoning Regulations and the Height Act, height may be measured from the middle of any building front, regardless of the street from which the maximum permitted height is derived.

Here, the Comp Sheet indicates that at the time of construction, height was measured from 9th Street, NW. You indicated that you intend to measure the building height of the proposed improvements from G Street, which is a more advantageous measuring point. I confirm that G Street may be used for measuring the building's height. Furthermore, I confirm that, based on the plans and calculations provided, the proposed improvements will conform to the height limit under both the Zoning Regulations and the Height Act.

C. Existing and Proposed Density; Treatment of Mechanical Parking for Purposes of Calculating Gross Floor Area

The Comp Sheet indicates the building has a gross floor area of approximately 90,754 square feet. Pursuant to a building permit issued in 1990, the infill of slab on multiple floors within the existing building increased the gross floor area of the building to 98,387 square feet.

Pursuant to 11 DCMR § 771.2, a maximum FAR of 8.5, or 110,500 square feet of gross floor area, is permitted as a matter of right for the Property. According to the calculations provided by your architect, the Project will increase the gross floor area to approximately 107,481 square feet, for a FAR of approximately 8.27.

In calculating the gross floor area for the Project, the architects excluded the space that contains a proposed mechanical stacked parking garage within the building. As shown on the plans, the mechanical parking garage is located a three-story volume located on the cellar, first, and second floors of the west portion of the building. The plans also indicated that the mechanical garage can hold up to five levels of cars, with each level having a ceiling height of less than 6'6". The mechanical garage will not otherwise be occupiable space.

Under Section 199 of the Zoning Regulations, a "garage, mechanical parking" is defined as a structure in which parking is accomplished "entirely by means of elevators" and "in such a manner that there is no human occupancy other than by the elevator operators anywhere except on the main floor." Under the Regulations, "gross floor area" is defined as space "providing structural headroom of six feet, six inches or more."

I conclude that the mechanical parking garage proposed in the Project meets the definition of "garage, mechanical parking" under Section 199 of the Zoning Regulations because it is entirely automated and does not permit any human occupancy. Moreover, I conclude that since mechanical parking garages, by definition, do not permit human occupancy and, furthermore, since the levels in this structure have ceiling heights of less than 6'6", the space devoted to the mechanical parking garage does not count as "gross floor area."

Therefore, based on the foregoing, the proposed Project's FAR complies with the maximum FAR limitations set forth in the Zoning Regulations, including the related definitions of gross floor area.

D. Court in Lieu of Rear Yard

Section 774.1 ordinarily requires a rear yard with a depth of at least 2.5 inches per foot of height. Such rear yard may begin at a horizontal plane not more than 20 feet above the mean finished grade at the rear of the structure. The required rear yard for the Project would be 18'9".

Section 774.9(c), however, permits a court in lieu of a rear yard for corner lots. The court must comply with the width requirements for a closed court as specified in 11 DCMR § 776, and under Section 776.2, the required width for a court for a nonresidential building is 3 inches per foot of height, regardless of whether the court is an open or closed court. Furthermore, the court may begin at a horizontal plane not more than 20 feet above the curb grade opposite the center of the front of the building

You propose providing a court in lieu of rear yard at the southwest corner of the Property and presented two alternate court configurations, as shown on the attached plans. Proposed court A is a rectangular court. Proposed court B includes an additional piece beyond the initial rectangle that does not have the same width as the initial rectangle, and is thus a non-rectangular court. Under both plans, the court is an open court because it opens onto an alley that is at least 10 feet wide. Furthermore, the height of the court will be approximately 90 feet tall, which triggers a requirement for a court width of 22'6".

Under the Zoning Regulations, "court, width of" defines the width of an open court as the minimum horizontal dimension substantially parallel with the open end of the court. However, the Regulations also provide a separate definition for the width of a closed court, which is defined as the court's "lesser horizontal dimension." Based on my reading of Section 774.9(c), which expressly states that the width of a court in lieu of rear yard must meet the requirements for the width of a closed court, in conjunction with the definition of "court, width of," I conclude that Section 774.9(c) requires that the width of a court that is provided in lieu of a rear yard must be calculated based on the court's lesser horizontal dimension, regardless of whether the court itself is an open or closed court. Accordingly, I conclude that the lesser horizontal dimension of the proposed court A must have a width of at least 22'6".

The Zoning Regulations state that, for a non-rectangular court, the court width may be measured based on the diameter of the largest circle that may be inscribed in a horizontal plane within the court. The proposed court B would have a minimum diameter of 22'6". I conclude that this satisfies the width requirement for the court.

E. Existing Parking and Parking Requirements for the Project

The Comp Sheet indicates that no parking was required at the time of construction and that the use at the time of construction was an office building. **Accordingly, the existing building is grandfathered as to parking.**

The proposed use is office use, the same as the existing use. According, the proposed use will not require any additional parking for the existing gross floor area within the building.

Parking will be required for any additional gross floor area associated with the project. Chapter 21 of the Regulations requires one parking space for each 1800 square feet of new gross floor area. Based on the additional gross floor area you indicated will be added to the building, approximately five parking spaces will be required.

F. Existing Loading and Loading Requirements for the Project.

The Comp Sheet indicates that no loading was required at the time of construction, and therefore the existing gross floor area within the building is grandfathered as to loading.

Chapter 22 of the Regulations requires one additional 30-foot berth and one additional 100 square foot platform for office uses greater than 100,000 square feet. You have indicated that the proposed improvements will increase the gross floor area of the building beyond 100,000 square feet. Therefore, an additional berth and platform will be required for the Project.

G. Roof Structure

The plans indicate that you intend to move the roof structure so that will not be set back from the south wall, which faces the alley at the rear of the Property. Such a roof structure will require special exception relief pursuant to Sections 411 and 3104 of the Zoning Regulations.

Conclusion

Based on the foregoing, the Project will not be subject to DD, and the Project will comply with the height, gross floor area, and court requirements for the Zoning Regulations. No parking or loading is required for the existing gross floor area within the building, but additional parking and loading is required as detailed herein. Finally, the proposed roof structure will require special exception relief because it is not set back from the south wall of the building. Please let me know if you have further questions.

Sincerely, 

Matthew Le Grant